

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO. 44, 2019

=====

Common Address of lots to be rezoned: **1411 S. 6th St.**

Rezone From: **R-2 Two Family Residence District**

Rezone To: **R-2 Two Family Residence Planned Development**

Proposed Use: **Bed and Breakfast and Event Space**

Name of Owner: **Red Brick Real Estate, LLC**

Address of Owner: **6215 W. Jones Ave., West Terre Haute, IN 47885**

Phone Number of Owner: **c/o (812) 232-6003 Louis F. Britton**

Attorney Representing Owner: **Louis F. Britton**

Address of Attorney: **Cox, Zwerner, Gambill & Sullivan, LLP, 511 Wabash Avenue, Terre Haute, Indiana 47807**

Phone Number of Attorney: **(812) 232-6003**

for Information Contact: ☐ Owner ☒ Attorney

Council Sponsor: **Todd Nation**

FILED

DEC. 2, 2019

CITY CLERK

**AMENDED
SPECIAL ORDINANCE NO. 44, 2019**

An Ordinance amending Chapter 10, Article 2 of the Municipal Code designated as
"Comprehensive Zoning Ordinance for Terre Haute, Indiana."

SECTION 1. BE IT ORDAINED BY THE COMMON COUNCIL of the City of Terre Haute, Vigo County, State of Indiana, that Chapter 10, Article 2 of the City Code of Terre Haute, designated as the "Comprehensive Zoning Ordinance for Terre Haute" and Division 4, Section 10.121 thereof, District Maps, be, and the same is hereby amended to include as follows:

That the following described real estate situated in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Commencing at the intersection of the South line of Washington Avenue with the West line of Sixth Street, in Terre Haute; thence West along the South line of Washington Avenue 243 feet; thence South 204 feet more or less to the South line of the North half of Lot 1 in the Subdivision of the Hullitt's Estate in Out Lot 66 as shown in Plat Record 1 Page 87, thence East to the West line of Sixth Street, 243 feet; thence North along the west line of Sixth Street 204 feet more or less to the place of beginning. Except 5 feet off the West end of the above described real estate.

commonly known as 1411 S. 6th St., Terre Haute, Indiana, be and the same is hereby established as a Planned Development as designated in Division III Section 10-110 et seq. of said Comprehensive Zoning Ordinance for Terre Haute and the same is hereby declared to be a R-2 Two Family Residence Planned Development District authorizing the use of said real estate for use as a bed and breakfast and small event facility including licensing for the sale of beer and wine to guests at the bed and breakfast and at scheduled events and further granting a variance from the offstreet parking requirements of the Ordinance to permit such use with offstreet parking for not less than 11 vehicles, subject to all limitations and restrictions imposed thereon by deed or otherwise.

Petitioner has provided substantial evidence that the Planned Development will not adversely affect surrounding property values, public health and safety or the general public welfare and that a hardship exists justifying classification of the property as a Planned Development. Specifically, the Council finds that a hardship exists due to the fact that the Zoning Ordinance for the City of Terre Haute does not include a bed and breakfast as a permitted use in any existing zoning classification

The Council finds that the proposed uses, if approved, will be in the public's interest, will not adversely affect surrounding property values, will not adversely affect public health, safety and the general public welfare; that substantial justice will be done for that neighborhood and that approval of the designation of the property as a Planned Development does not nullify the purpose of the zoning regulations.

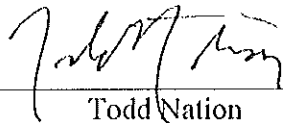
In the event the planned development has not materialized within six months of approval the planned development shall become void.

The rights granted herein shall be transferable.

This Ordinance shall be recorded in the Vigo County recorder's office within 90 days of its approval at the expense of petitioner.

SECTION 2. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and approval by the Mayor and publication as required by law.

PRESENTED BY COUNCILPERSON


Todd Nation

Passed in open Council this 5TH day of DECEMBER, 2019.

Martha Crossen
Martha Crossen, President

ATTEST: Michelle L Edwards, City Clerk
Michelle Edwards

Presented by me to the Mayor this 6TH day of DECEMBER, 2019.

Michelle L Edwards
Michelle Edwards, City Clerk

Approved by me, the Mayor, this 6TH day of DECEMBER, 2019.

Duke A Bennett
Duke Bennett, Mayor
City of Terre Haute

ATTEST: Michelle L Edwards
Michelle Edwards, City Clerk

I prepared the foregoing instrument and I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Louis F. Britton
Louis F. Britton
COX, ZWERNER, GAMBILL & SULLIVAN, LLP
511 Wabash Avenue, Terre Haute, IN 47807
Phone: (812) 232-6003

SPECIAL ORDINANCE NO. 44, 2019

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Petitioner has provided substantial evidence that the Planned Development will not adversely affect surrounding property values, public health and safety or the general public

welfare and that a hardship exists justifying classification of the property as a Planned Development. Specifically, the Council finds that a hardship exists due to the fact that the Zoning Ordinance for the City of Terre Haute does not include a bed and breakfast as a permitted use in any existing zoning classification

The Council finds that the proposed uses, if approved, will be in the public's interest, will not adversely affect surrounding property values, will not adversely affect public health, safety and the general public welfare; that substantial justice will be done for that neighborhood and that approval of the designation of the property as a Planned Development does not nullify the purpose of the zoning regulations.

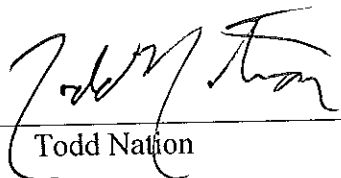
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PRESENTED BY COUNCILPERSON



Todd Nation

Passed in open Council this _____ day of _____, 2019.

Martha Crossen, President

ATTEST: _____, City Clerk

~~Charles Hanley~~ MICHELLE EDWARDS

Presented by me to the Mayor this _____ day of _____, 2019.

~~Charles Hanley~~, City Clerk

MICHELLE EDWARDS

Approved by me, the Mayor, this _____ day of _____, 2019.

Duke Bennett, Mayor
City of Terre Haute

ATTEST: _____

~~Charles Hanley~~, City Clerk
MICHELLE EDWARDS

I prepared the foregoing instrument and I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.



Louis F. Britton

COX, ZWERNER, GAMBILL & SULLIVAN, LLP
511 Wabash Avenue, Terre Haute, IN 47807
Phone: (812) 232-6003

Special Ordinance 44, 2019

PETITION FOR REZONING

TO THE PRESIDENT AND MEMBERS
OF THE COMMON COUNCIL OF
THE CITY OF TERRE HAUTE,
VIGO COUNTY, INDIANA

Gentlemen:

Read Brick Real Estate LLC, petitioner, is the owner of the following described real estate located in Vigo County, Indiana, to-wit: See Exhibit A which real estate is commonly known as 1411 S. 6th St., Terre Haute, IN. Parcel number 84-06-28-476-019.000-002 (the property).

Petitioner is seeking to have the property rezoned from R-2, Two Family Residence District to R-2, Two Family Residence District Planned Development.

In support of this petition, petitioner would show the Common Council the property constitutes a large single family residence situated on approximately 1 acre constructed before 1900 which was formerly the site of the Vigo County Historical Society Museum. Use of the property as a single-family residence or two family residence is impractical due to its size. Petitioner proposes to use the property as a bed and breakfast and small event facility including a two-way liquor license. However, there is no existing zoning classification within the city of Terre Haute for such a use.

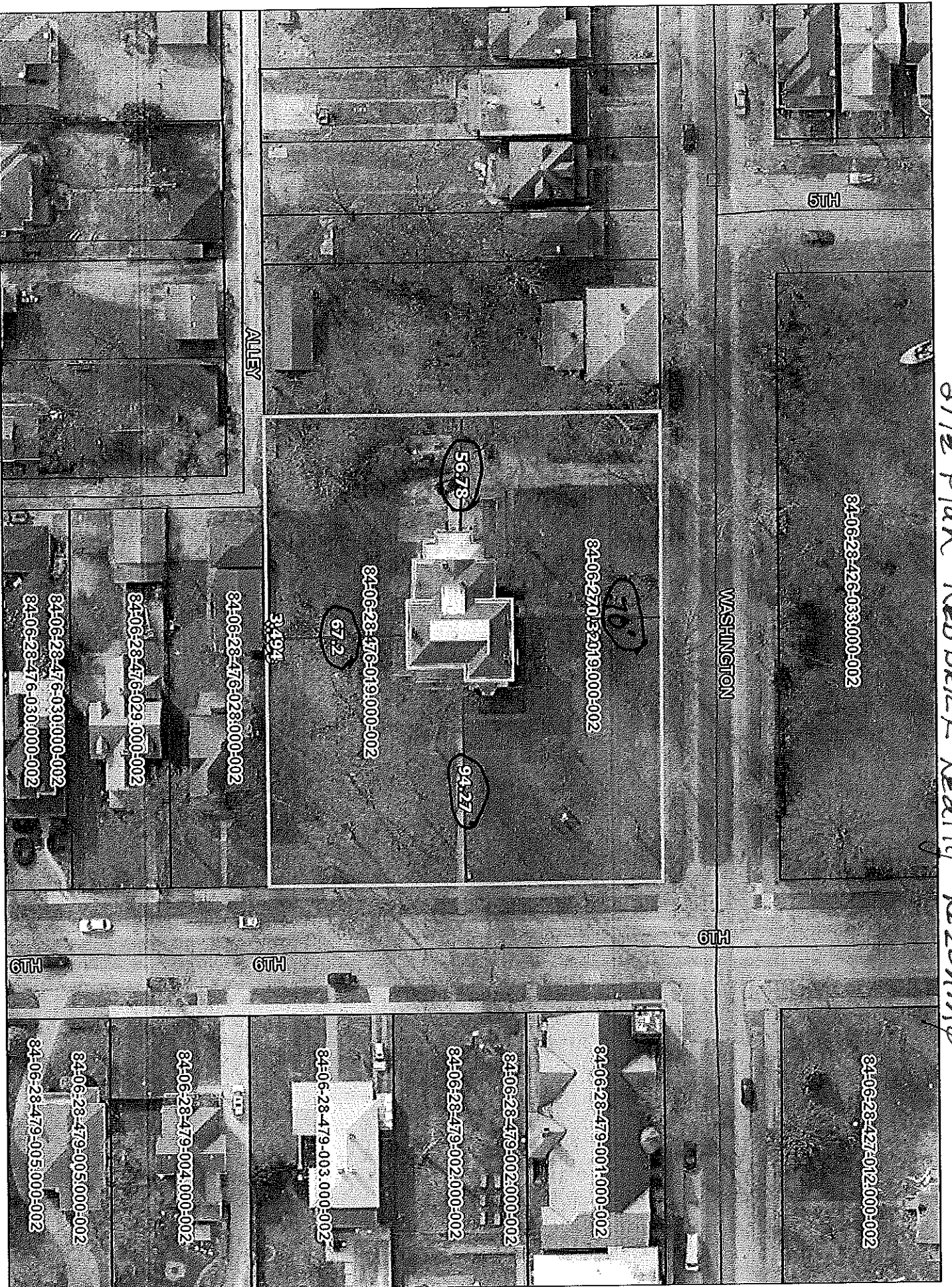
In order to bring the properties into compliance with the zoning ordinance petitioner is requesting a rezoning of the property to R-2, Two Family Residence District Planned Development to permit use as a bed and breakfast and small event facility including licensing for the sale of beer and wine with off street parking for no less than 11 vehicles.

Red Brick Real Estate LLC

By: Benjamin A. Landerman
Benjamin A. Landerman
printed name and title

This instrument prepared by Louis F. Britton, COX, ZWERNER, GAMBILL & SULLIVAN, LLP, 511 Wabash Avenue, Terre Haute, IN 47807; (812) 232-6003

Site Plan Red Beick Realty Rezoning



S

Parking

Summer
Kitchen

Main Building

Driveway



WASHINGTON

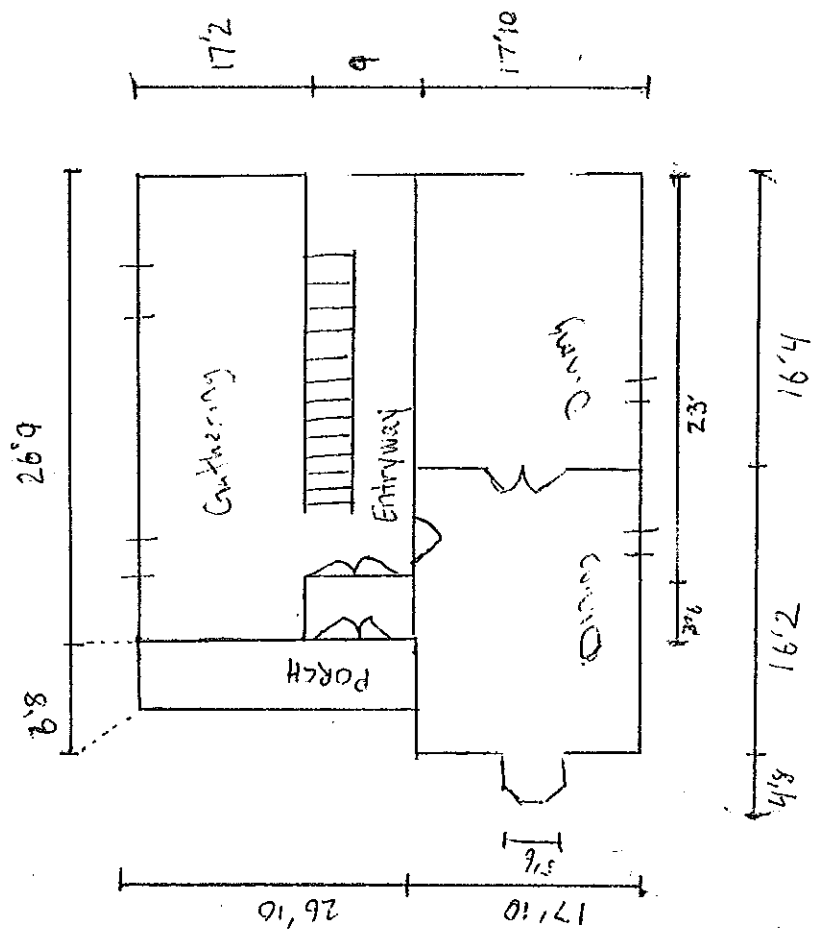
38'

S 6th Street

W

21

East 1st Floor 5

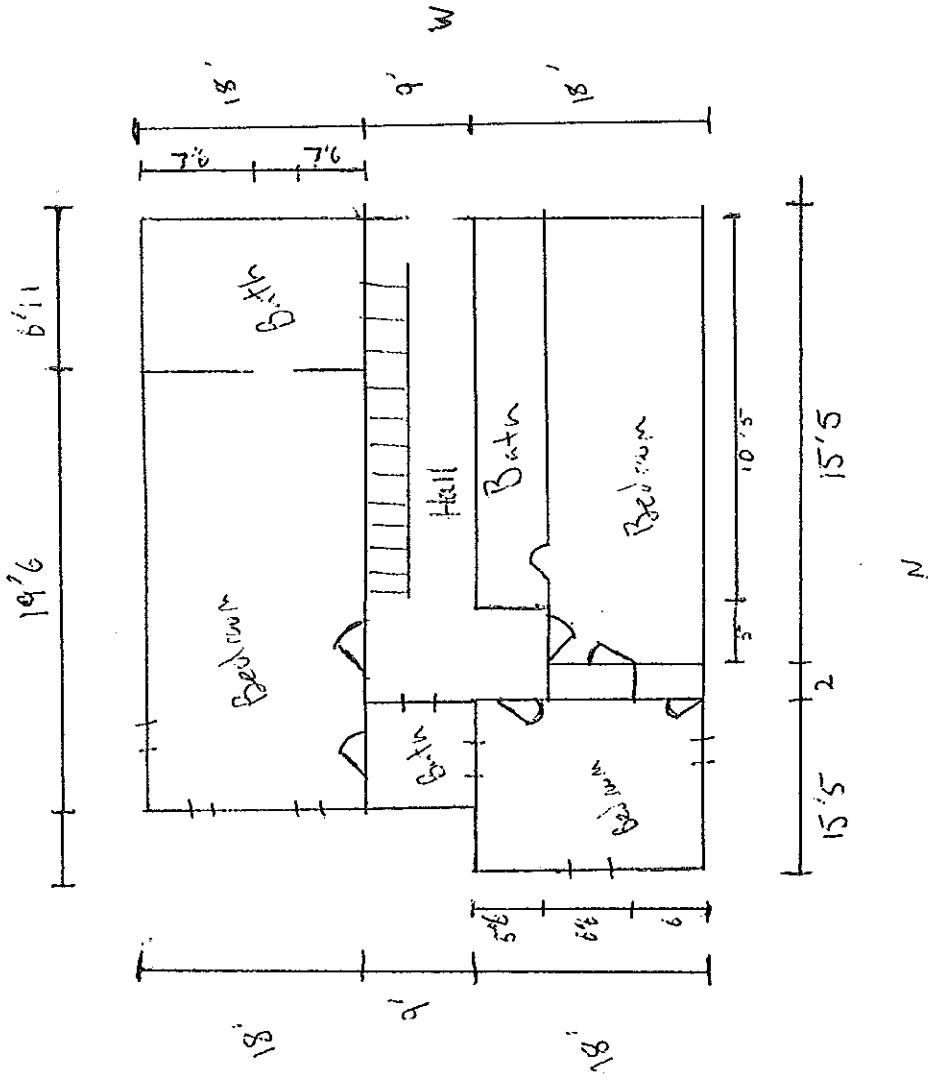


W

N

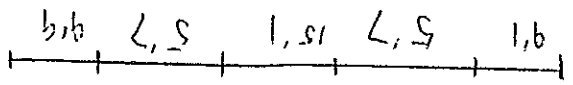
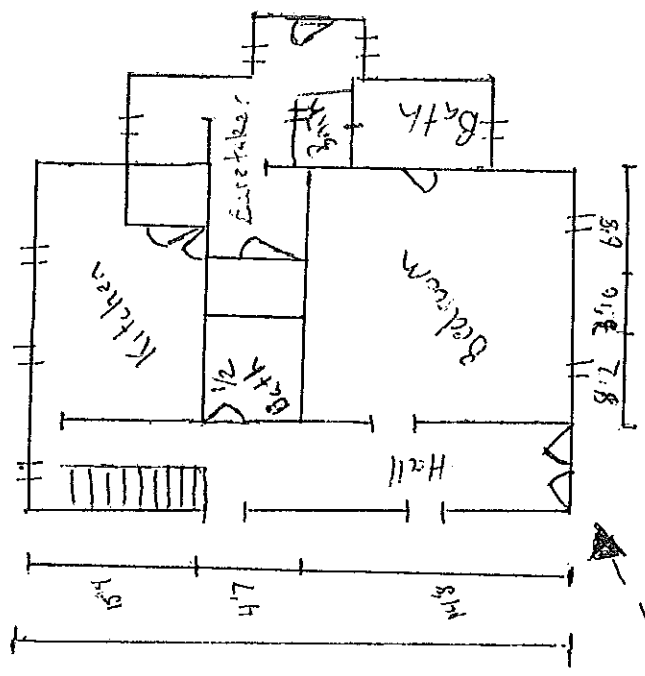
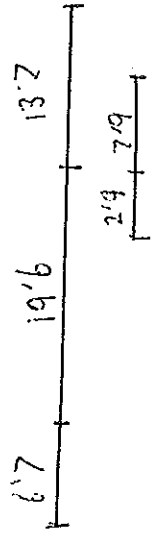
East
2nd Floor

E



West
1st
Floor

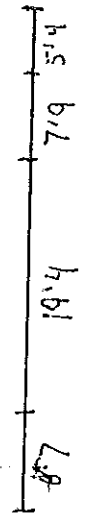
S



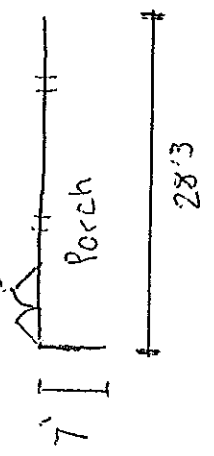
N

37'

E

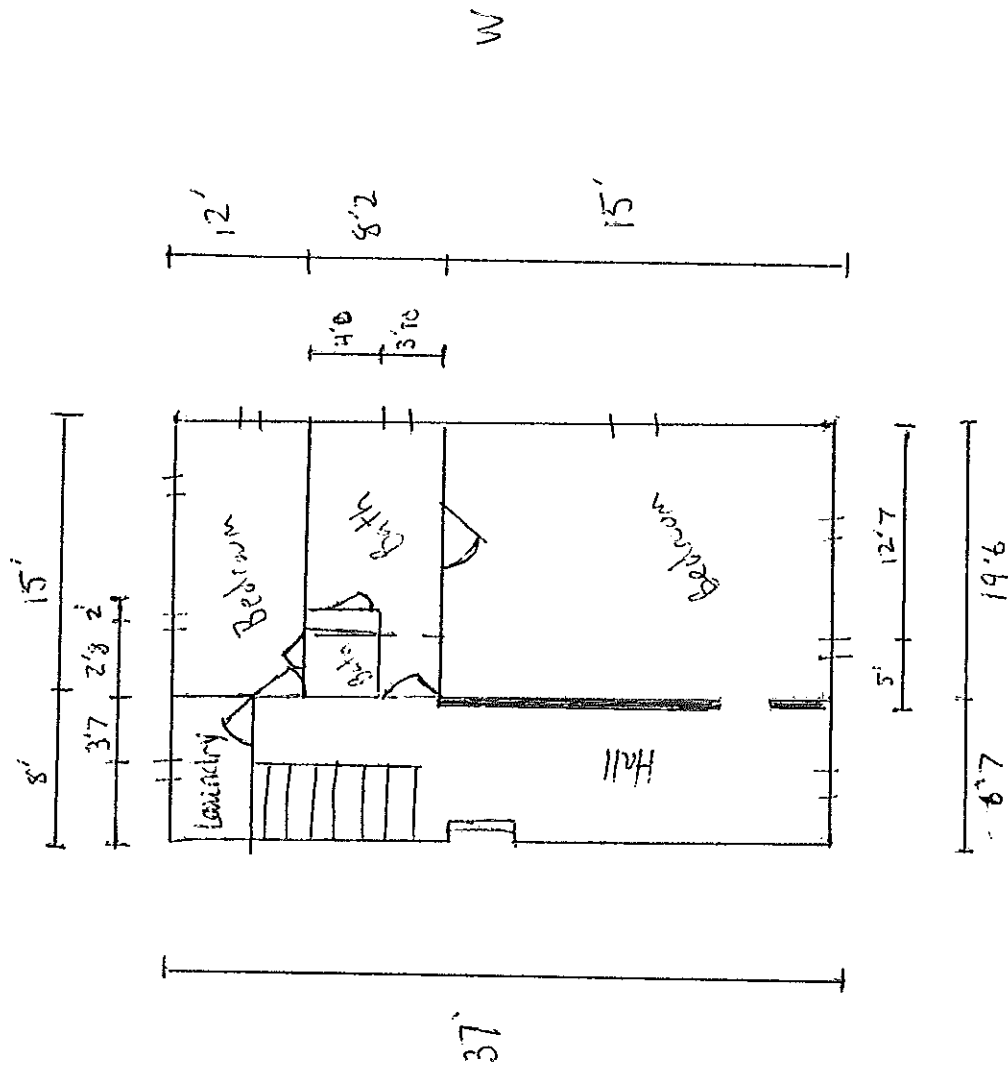


N



West
2nd
Floor

S



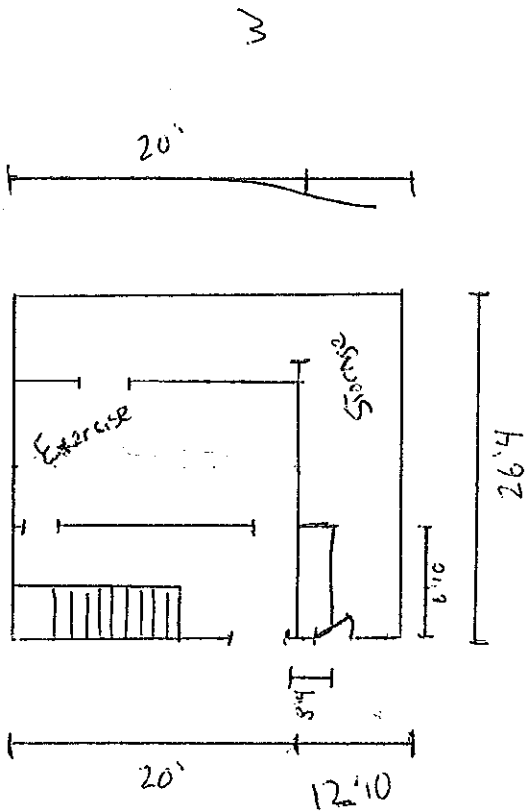
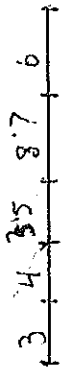
W

E

N

West
+
Basement

S

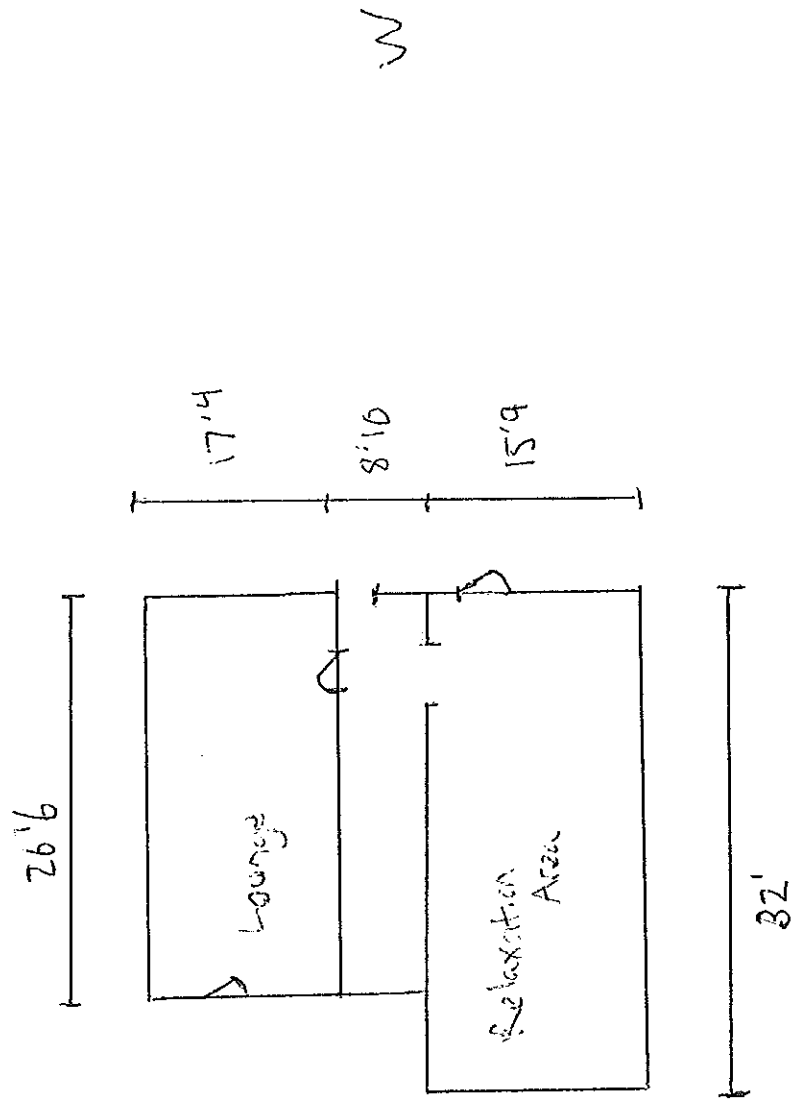


N

[B]

East
Basement

S



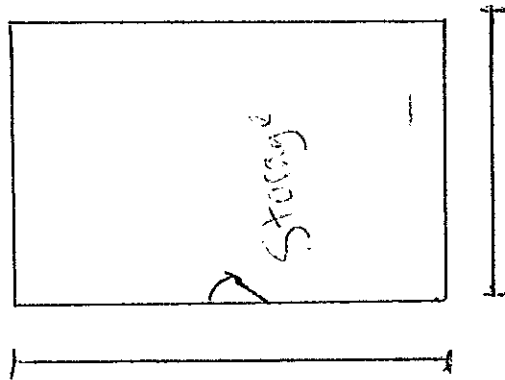
E

N

West
Attic

S

W



30'3

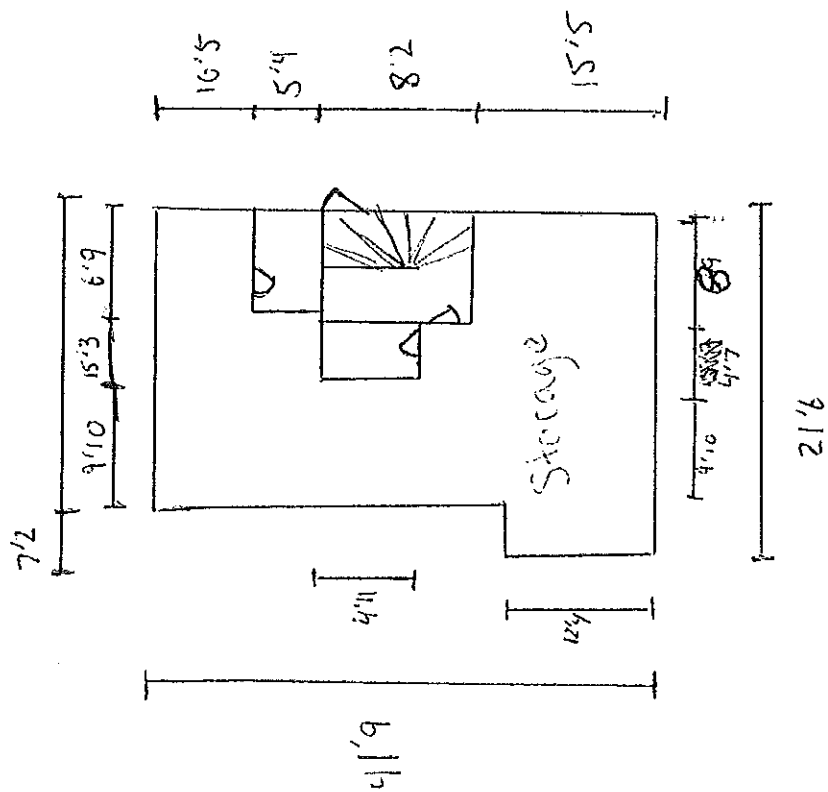
22'9

N

E

East
Attic

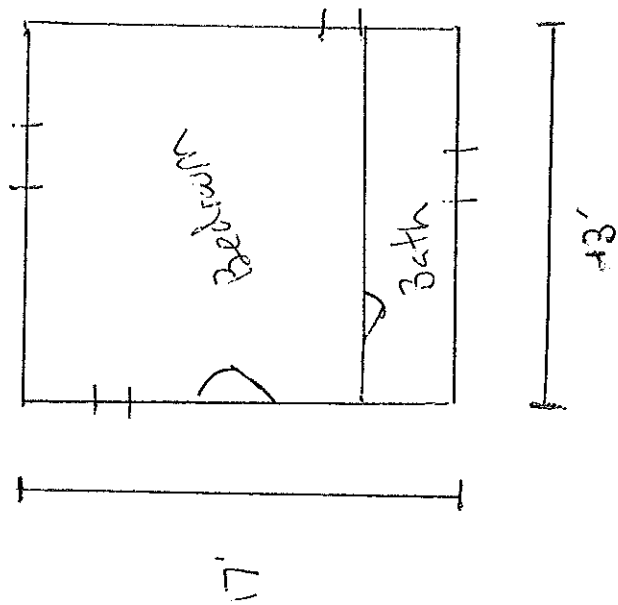
S



N

Summer
Kitchen

S



N

N

E

AFFIDAVIT

COME NOW affiants, Red Brick Real Estate, LLC by its duly authorized agent and affirm under penalty of law that it is the owner of record of the property located at 1411 S. 6th St., Terre Haute, Indiana, for which a rezoning is requested and attached hereto a deed evidencing such ownership.

I affirm, under penalties for perjury, that the foregoing representations are true.

Read Brick Real Estate, LLC
By Benjamin A. Lenderman
Signature
Benjamin A. Lenderman Member
Printed name and title

STATE OF Indiana)
COUNTY OF Vigo) SS:

Personally appeared before me, a Notary Public in and for said County and State, _____

Benjamin A. Lenderman, who acknowledge the execution of the above and foregoing

Affidavit, after being duly sworn upon their oaths and after having read this Affidavit.

WITNESS my hand and Notarial Seal, this 7 day of Nov., 2019.



Debra D. Lowe
Resident of Vigo County
Commission Expires 8/21/22

Debra D. Lowe
Notary Public

Debra D. Lowe
(Printed Name)

My Commission Expires:

8-21-22

My County of Residence:

Vigo

This instrument prepared by Louis F. Britton, COX, ZWERNER, GAMBILL & SULLIVAN, LLP, 511 Wabash Avenue, Terre Haute, IN 47807; (812) 232-6003.

CORPORATE WARRANTY DEED

THIS INDENTURE WITNESSETH, That The Vigo County Historical Society, a nonprofit corporation organized and existing under the laws of the State of Indiana, (hereinafter called GRANTOR), for and in consideration of the payment to it of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby CONVEYS AND WARRANTS to Red Brick Real Estate LLC, a limited liability company organized and existing under the laws of the State of Indiana, (hereinafter called GRANTEE(S)), the following described real estate in Vigo County, Indiana, to-wit:

Commencing at the intersection of the South line of Washington Avenue with the West line of Sixth Street, in Terre Haute; thence West along the South line of Washington Avenue 243 feet; thence South 204 feet more or less to the South line of the North half of Lot 1 in the Subdivision of the Hullitt's Estate in Out Lot 66 as shown in Plat Record 1, Page 87, thence East to the West line of Sixth Street, 243 feet; thence North along the West line of Sixth Street 204 feet more or less, to the place of beginning.

Except 5 feet off the West end of the above described real estate.

Subject to any rights-of-way, easements, leases, restrictions, reservations, covenants, rights of persons in possession, outstanding mineral interests, land use restrictions imposed by governmental authorities, and all other matters of record, if any there be.

Subject to real estate taxes prorated to the date hereof.

As a further consideration of the payment of the above sum, the persons executing this deed on behalf of Grantor represent and certify, for the purpose of inducing Grantee(s) to accept this Warranty Deed, that they are the duly elected officers of Grantor and have been fully empowered by the By-Laws of Grantor and proper resolution of the Board of Directors of Grantor to execute and deliver this deed; that Grantor has full corporate capacity to convey the real estate conveyed by this instrument and that all necessary action for the making of such conveyance has been taken; that the real estate conveyed by this instrument is conveyed in the usual and regular course of business as such term is defined in the Indiana Business Corporation Law, as amended.

IN WITNESS WHEREOF, The Vigo County Historical Society has caused this deed to be executed in its name and on its behalf by its duly authorized officers, this 28th day of March 28, 2019.

The Vigo County Historical Society

By Marilee Hagan
Marilee Hagan, Executive Director
(Printed Name and Title)

ATTEST:

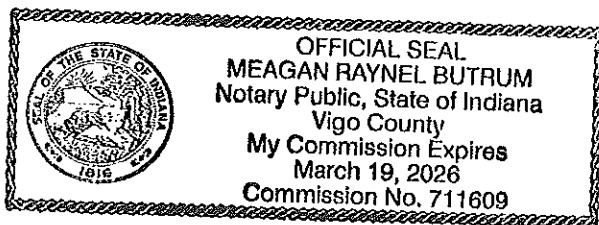
By _____

(Printed Name and Title)

STATE OF Indiana)
) SS:
COUNTY OF Vigo)

I, Meagan Rayne Butrum, a Notary Public in and for said county and state, do hereby certify that Marylee Hagan and _____, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such officers, and to be such officers, appeared before me this day in person and, being first duly sworn, said and acknowledged that they are such officers and that they signed and delivered said deed as a free and voluntary act of said The Vigo County Historical Society and as their own free and voluntary act as such Executive Director and _____, by authority of the Board of Directors of said corporation for the use and purposes therein set forth.

Given under my hand and notarial seal this 28th day of March, 2019.



Meagan Rayne Butrum
Notary Public
Meagan Rayne Butrum
(Printed Name)

My Commission Expires:

3-19-2026

My County of Residence:

Vigo

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

[Signature]
Signature
Donald J Bonomo
Printed Name

This instrument was prepared by Donald J. Bonomo, Attorney, Cox, Zwerner, Gambill & Sullivan, LLP, 511 Wabash Avenue, Terre Haute, IN 47807. The deed was prepared at the specific request of the parties or their authorized representatives based solely on information supplied by one or more of the parties to this conveyance concerning the property to be conveyed and without examination of title or abstract. The drafter assumes no liability for any errors, inaccuracy, or omissions in this instrument resulting from the information provided and makes no representation regarding the status or quality of the title hereby conveyed by Grantor's execution and Grantee's acceptance of the instrument.

GRANTEE'S ADDRESS: 6215 N. Jones Ave. West Terre Haute, IN 47885

MAIL TAX STATEMENTS TO: Same

Receipt

The following was paid to the City of Terre Haute, Controller's Office.

Date: 11/8/2019

Name: Bens, Rod Brick Real Estate

Reason: Rezoning - Petition - \$20

Rezoning - Notice of filing - \$25

\$45

TERRE HAUTE, IN

PAID

NOV 8 2019

CONTROLLER

Cash: _____

Check: \$45 # - 100112

Credit: _____

Total: \$45

Received By: S. Ellis/HP



TERRE HAUTE
A LEVEL ABOVE

Area Planning Department For Vigo County

159 Oak Street, Terre Haute, Indiana 47807

Telephone: (812) 462-3354

Fax: (812) 234-3248

Terre Haute • West Terre Haute • Riley • Seelyville

DATE: December 5, 2019

REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO
SPECIAL ORDINANCE NUMBER 44-19,

CERTIFICATION DATE: December 4, 2019

TO: The Honorable Common Council of the City of Terre Haute

Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 44-19. This Ordinance is a rezoning of the property located at 1411 S 6th Street, Terre Haute, IN. The Petitioner, Red Brick Real Estate, LLC., petitions the Plan Commission to rezone said real estate from zoning classification R-2 to R-2 PD, Two Family Residence Planned Development for a Bed & Breakfast & Event Space. The Ordinance was published in the Tribune-Star Newspaper in accordance with IC 5-3-1 and Division XIII of the Comprehensive Zoning Ordinance. Further, this ordinance was posted by the City Building Inspection Department in accordance with IC 36-7-4-604(c).

The Area Plan Commission considered Special Ordinance No. 44-19 at a public meeting and hearing held Wednesday, December 4, 2019. Remonstrators were not present. Throughout this meeting, a quorum was present pursuant to IC 36-7-4-301, and the Area Plan Commission took official action on Special Ordinance No. 44-19 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 44-19 as required by IC 36-7-4-401(a)(7) and IC 36-7-4-605(c).

Therefore, Area Plan Commission's certified recommendation on Special Ordinance No. 44-19 was
FAVORABLE WITH THE FOLLOWING CONDITION:

1. The existence of a hardship be demonstrated.

A handwritten signature in dark ink, appearing to read "Fred E. Wilson".
Fred E. Wilson, PresidentA handwritten signature in dark ink, appearing to read "Jared Bayler".
Jared Bayler, Executive Director

Received this 5th day of December, 2019

STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #44-19
Date: December 2019

Doc: # 78
Page 1 of 4

APPLICATION INFORMATION

Petitioner: Red Brick Real Estate, LLC

Property Owner: Same-As-Above

Representative: Louis Britton

Proposed Use: Bed & Breakfast and Event Space

Proposed Zoning: R-2, Planned Development District

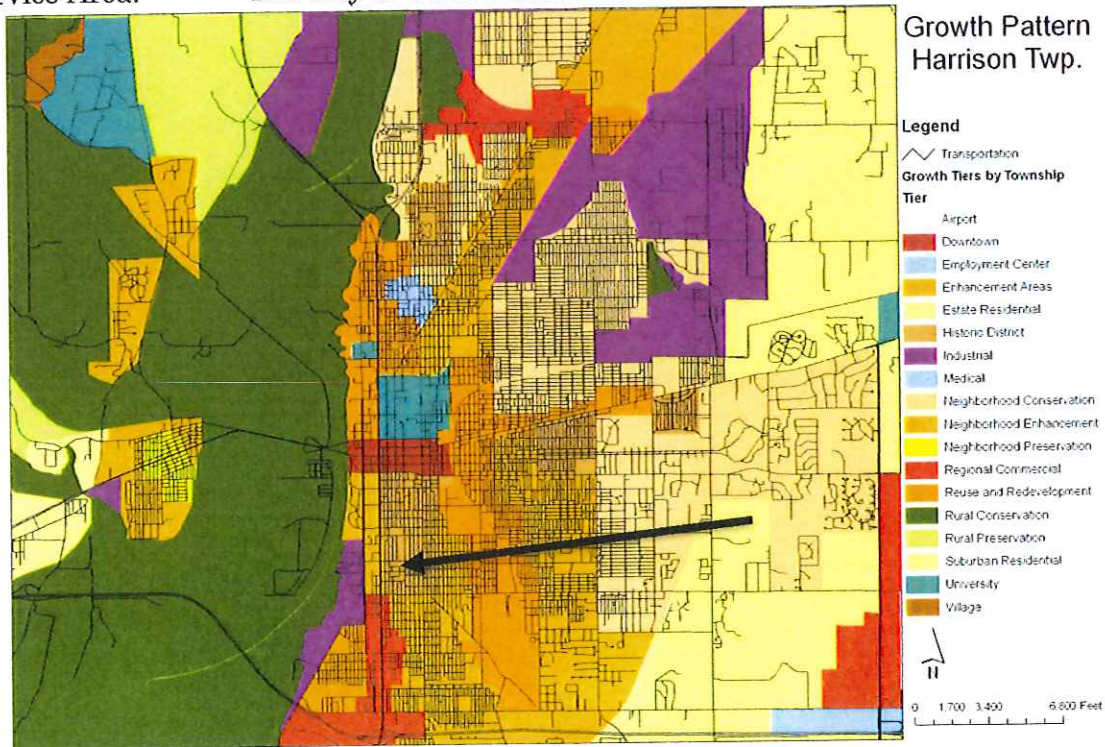
Current Zoning: R-2, Two-Family Residence District

Location: The property located on the SW corner of Washington Street and S. 6th Street.

Common Address: 1411 S. 6th Street, Terre Haute, IN 47802

COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #44-19
Date: December 2019

Doc: # 78
Page 2 of 4

Historic Districts

Historic Districts are locations within the community that are important because of historic events, their architectural or cultural significance, or a connection to the lives of the people who lived there that should be protected and enhanced as an amenity to region. There are two types of historic districts:

- **National Register Historic Districts.** The National Register is a nation-wide list of buildings or areas certified by the Secretary of Interior as important architecturally, historically or culturally. Individual buildings and those in a district are eligible for Federal and Indiana tax credits for rehabilitation and tax reductions for easement donation. Listing a building on the National Register does not trigger local review of changes to the building unless the project is federally funded.
- **Local Historic Districts.** Local Historic Districts can be created by local ordinance, and are regulated by a historic district design standards in that ordinance. These standards vary from district to district and are developed by the neighborhood. “Certified” local historic districts have been determined to qualify for the National Register. These districts enjoy the same tax credit benefits as National Register districts.

Specific items to be utilized in identifying historic districts include:

- Buildings and structures within the district generally must be 50 years old.
- Many demolitions or new buildings have not altered it historic appearance.
- District resources should be similar in style, massing, detailing and/or date of construction.
- The buildings in the district must retain their original architectural character.
- The area must have clear and precise defined boundaries.

ZONING COMPATIBILITY

Sur. Zones and Uses: **North** – R-2,
 East – R-2 PD & R-2
 South – R-2
 West – R-2

ZONING REGULATIONS

R-2 Two Family Residence District

Uses, Permitted - R-2 Two-Family Residence District.

- (1) Any use permitted in the R-1 District.
- (2) Dwellings - one and two family attached or detached.

Planned Developments

Planned Developments are uses that may be permitted, under certain circumstances that are not a permitted use in the zoned district where said Planned Development is proposed. A Planned Development is a floating zone.

Before a Planned Development can be considered, the petitioner must show proof of one of the following unique circumstances. That the petitioner has a:

- (1) Hardship due to the physical characteristics of the land.
Example - Peculiarities of the sizes, shape, or grade of the parcel in question.
- (2) Hardship due to the improvements on the land.
Example - Commercial structure in a residential neighborhood that is not suitable for residential use.
- (3) Hardship due to adjacent, scattered incompatible uses.
Example - Scattered commercial uses in a residential neighborhood.
- (4) Hardship due to the general deterioration of the neighborhood.
Example - Neighborhoods that are blighted as determined by the Department of Redevelopment.
- (5) Parcel located near district boundary lines.
Example - Parcel located on a major thoroughfare is presently zoned residential while other parcels in the area are zoned commercial.

When it is determined by the Area Plan Commission and the City Council that a hardship does exist, a Planned Development of certain uses may be approved for any zoned lot. However, it must be determined that said proposed uses, if approved, will be in the public's interest and that substantial justice will be done for that neighborhood. Approval of said proposed uses shall not have the intent of nullifying the purpose of these zoning regulations.

FINDINGS and RECOMMENDATION

Staff Findings:

In order to receive the PD zoning a hardship as listed above must be present. The petitioner's representative states that the City of Terre Haute does not include a bed and breakfast as a permitted use in any existing zoning classification. Often a PD can be a creative way to incorporate a use not otherwise listed as a use by right in any category.

This rezoning would allow the reuse of the former Vigo County Historical Museum building. It is in the Farrington Gove Historic District. Accordingly, attention will need afforded to the historic nature of the building.

The use of the PD classification could be considered a protection for the neighborhood. Should the use be abandoned it would revert to the R-2 zoning.

Recommendation: Staff has a Favorable Recommendation for the R-2PD with the following condition:

1. That the existence of a hardship be demonstrated.
2. The rezoning must be recorded within 90 days.

Red Brick Real Estate, LLC.
Docket #78, SO #44-19 From R-2 to R-2PD
1411 South 6th Street



0 50 100 Feet

 Area-Of-Interest

Parcel: 84-06-28-476-019.000-002

Prepared by Vigo County
Department of Area Planning